

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PHILLIP EUGENE SMITH,

Defendant.

4:18CR3043

ORDER

Defendant wants counsel representation for this case. He has appointed counsel, but requests that his appointed counsel withdraw, (Filing No. 26), stating his appointed attorney has a conflict of interest and Defendant's family has retained an attorney to represent Defendant. The court's record does not reflect an entry of appearance by retained counsel for Defendant, and Defendant is entitled to counsel throughout all stages of a case. Moreover, the court finds that Defendant's appointed counsel does not have a conflict of interest in representing the defendant, and there is no evidence that he has failed to make reasonable efforts to represent Defendant or communicate with him.

Accordingly,

IT IS ORDERED:

- 1) Defendant's motion for withdrawal of appointed counsel, (Filing No. 26), is denied.
- 2) Pretrial motions and briefs shall be filed on or before June 25, 2018. If retained counsel has not entered an appearance for Defendant on or before June 18, 2018, Defendant's appointed counsel shall timely file any pretrial motions that counsel deems appropriate to file on Defendant's behalf.
- 3) Trial of this case is continued pending resolution of any pretrial motions filed.

- 4) As a result of the uncertainty of the status of defense counsel, the time between June 6, 2018 and June 25, 2018 shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because although counsel have been duly diligent, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7). Failing to timely object to this order as provided under this court's local rules will be deemed a waiver of any right to later claim the time should not have been excluded under the Speedy Trial Act.

June 7, 2018.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge